

EXHIBIT 8

DEPOSITION OF OFFICER BRANDON WILSON (PMK for WRAP)

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
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ROY NELSON III, Successor-
in-Interest to Decedent ROY
NELSON; ORENELL STEVENS,
individually,

Plaintiffs,

vs.

CASE NO.:
3:16-cv-7222

CITY OF HAYWARD, a municipal
corporation; MICHELLE HALL, in her
individual and official capacity
as Police Officer for the CITY OF
HAYWARD; NATHANAEL SHANNON, in his
individual and official capacity
as Police Officer for the CITY OF
HAYWARD; MATTHEW MCCREA, in his
individual and official capacity
as Police Sergeant for the CITY OF
HAYWARD; JOHN PADAVANA, in his
individual and official capacity
as Police Officer for the CITY OF
HAYWARD and DOES 1-50, inclusive,
individually and in their official
capacity as police officers for
the City of Hayward,

CERTIFIED COPY

Defendants.

_____ /

DEPOSITION OF OFFICER BRANDON WILSON

PMK FOR THE WRAP

FRIDAY, APRIL 6, 2018

REPORTED BY: KELLY L. MCKISSACK, CSR #13430

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A P P E A R A N C E S

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DEPOSITION OF OFFICER BRANDON WILSON (PMK for WRAP)

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
1	Notice of Amended Depositions of Persons Most Knowledgeable by Plaintiffs and Request for Production of Documents; 4 pages	10
2	Hayward Police Department Policy Manual for Policy 301, Handcuffing and Restraints; 4 pages	14
3	Demo - "The WRAP" by Safe Restraints, Inc., Training Videos; 3 pages	19
4	The WRAP by Safe Restraints, Inc., Basic Application Manual. Bates Stamped PLTF_000004 through PLTF_000044; 41 pages	24

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1 Pursuant to Notice of Taking Deposition, and
2 on Friday, April 6, 2018, commencing at the hour of
3 10:13 a.m., thereof, at 7677 Oakport Street, Suite 1120,
4 Oakland, California 94621, before me, KELLY MCKISSACK,
5 CSR No. 13430, a Certified Shorthand Reporter and
6 Deposition Officer of the State of California, there
7 personally appeared:

8
9 OFFICER BRADON WILSON,
10
11 called as a witness by the Plaintiffs, who having been
12 duly sworn by me, to tell the truth, the whole truth and
13 nothing but the truth, testified as hereinafter set
14 forth:

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16 --o0o--
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1 OFFICER BRADON WILSON,

2 having been first duly sworn, testified as follows:

3 THE WITNESS: (TO OATH) Yes.

4 EXAMINATION

5 BY MR. BUELNA: Q. Good morning.

6 A. Good morning.

7 Q. If you could just please state your name for
8 the record.

9 A. It's Bradon, B-R-A-D-O-N, Wilson, W-I-L-S-O-N.

10 Q. All right. And is it your understanding that
11 you're here as a person most knowledgeable for City of
12 Hayward Police Department in regards to the WRAP
13 Restraint?

14 A. Yes, it is.

15 Q. And this is for the lawsuit of Nelson versus
16 City of Hayward?

17 A. To my understanding, yes.

18 Q. Okay. Have you ever been deposed before?

19 A. No.

20 Q. No. It's your first time?

21 A. Yes.

22 Q. Okay. So I'm going to tell you it's not super
23 fun, but I'm going to tell you a couple of rules that we
24 have here. And I'll remind you if -- if we need to.

25 But they're pretty simple.

1 So we have a court reporter here that's
2 essentially making a written transcript of everything we
3 say. And what that means is we can't have any uh-huhs
4 or huh-uhs because she can't interpret that very well.
5 Do you understand?

6 A. Yes.

7 Q. We also can't have shaking of the head or
8 nodding of the head because she can't really interpret
9 that either. You understand?

10 A. Yes.

11 Q. Now, your counsel may object to some of my
12 questions. But unless he directs you not to answer, I'm
13 still entitled to an answer. Do you understand?

14 A. Yes.

15 Q. Now, I'm entitled to your best recollection,
16 but I don't want you to speculate. And what I mean by
17 speculate is I don't want you to guess. For example, if
18 I asked you to estimate how large my kitchen table was,
19 you wouldn't be able to give an answer, right?

20 A. Correct.

21 Q. But if I asked you to estimate maybe how large
22 this table is, you might be able to give me a rough
23 answer, right?

24 A. Correct.

25 Q. Is there any sort of medication that you've

1 taken this morning or any other sort of intoxicant that
2 would make your testimony unreliable today?

3 A. No.

4 Q. Now, one thing is important is I'm going to
5 ask you questions. And then I ask that you give some
6 time for your counsel to object or for you to respond.
7 Because if we're both talking, then she can't feasibly
8 write down both of our answers.

9 A. I understand.

10 Q. You understand?

11 Now, this isn't an endurance test. So we can
12 take a break at any time. I just ask, if I have a
13 question pending, that you answer the question and then
14 we take a break. You understand?

15 A. Yes.

16 Q. Okay. All right. And if at any point during
17 the deposition you remember something, your memory's
18 refreshed, it's okay to correct an answer. I prefer you
19 correct it now than later.

20 That being said, you will get an opportunity
21 to review your transcript. And you may make small
22 changes or large changes. But if you make any
23 substantial changes, I have the right to question you
24 later at trial on those changes. Do you understand?

25 A. Yes.

1 Q. Now, as to clarify, a big change that I would
2 care about is, like, for example, if I said, what color
3 was the light? And you said green. And then later you
4 changed it on your transcript to red. That would be a
5 substantial change. You understand?

6 A. Yes.

7 Q. Okay. I'd be entitled to answer -- or ask
8 questions in regards to that. But small things aren't
9 as worrisome. Okay.

10 Now, you mentioned this is your first depo,
11 but how long have you been working for the Hayward
12 Police Department?

13 A. Since 2007.

14 Q. Since 2007. Okay. And were -- what was your
15 job prior to working for the Hayward Police Department?

16 A. I was a student service officer at Cal State
17 University. It was Hayward at the time, now East Bay.

18 Q. Okay. And how long were you a student service
19 officer?

20 A. I think three years.

21 Q. Three years. Okay. So is there anything that
22 you did before that?

23 A. In terms of police or just work?

24 Q. In terms of work.

25 A. I worked at Longs Drugs as a clerk, store

1 clerk.

2 Q. Okay. So is it fair to say since around 2003
3 you've been involved in some sort of law enforcement?

4 A. Yes.

5 Q. Okay. Now, how did you learn of this
6 deposition?

7 A. I received an e-mail from my counsel.

8 Q. Okay. And I'm going to mark this as
9 Exhibit 1. This is the notice.

10 (Whereupon, Exhibit 1 was marked for
11 identification.)

12 BY MR. BUELNA: Q. Take a second to look through it.
13 Have you seen this piece of paper before?

14 A. Yes, sir.

15 Q. Do you know what it is?

16 A. I have an understanding of it, yes.

17 Q. And what's your understanding of it?

18 A. This is the summons for me to come here to be
19 the person most knowledgeable for a deposition. It asks
20 for the documents that my counsel was to supply. And
21 then it goes over what I would be speaking on.

22 Q. Okay. And on Page 2, you see there's a little
23 2 on the bottom?

24 A. Yes.

25 Q. In number one right there it says, "Person

1 most knowledgeable regarding the Defendants' training
2 related specifically to the use of the WRAP device."

3 Now, it goes on, but is that what you are?
4 Are you the person most knowledgeable at the City of
5 Hayward Police Department in regards to the Defendants'
6 training related specifically to the use of the WRAP
7 device?

8 A. To my understanding, the person most
9 knowledgeable, yes.

10 Q. What's your understanding of the person most
11 knowledgeable?

12 A. It's not per se the person that has the most
13 information, but more than the typical officer or
14 employee.

15 Q. Okay. And do you have this -- are you the
16 person most knowledgeable in regards to the defendant
17 officers' training?

18 A. Yes.

19 Q. Okay. And those defendant officers you are
20 aware of?

21 A. I know some of them. I don't know if there's
22 more than what I know.

23 Q. Okay. Which ones do you know?

24 A. I believe at the time it was Sergeant McCrea,
25 but now Officer McCrea, Officer Michelle Hall,

1 Officer John Padavana, Officer Nate Shannon. That's all
2 that is, to my knowledge. I don't know if anybody else
3 has been listed.

4 Q. Okay. I'm going to represent to you we added
5 one more which was Officer McKee.

6 A. Ron McKee?

7 Q. Yes.

8 A. Okay.

9 Q. William McKee.

10 A. I'm sorry.

11 Q. But no problem. You don't have to remember
12 all of your colleagues names in a large office.

13 A. He goes by Ron.

14 Q. By Ron. Okay. Fair enough. All right.

15 Now, to what extent do you have any sort of
16 expertise or knowledge in the WRAP restraint?

17 A. I am a ACT, which stands for Arrest Control
18 Tactics, instructor for the Hayward Police Department.
19 I've been so since 2010. The ACT instructors are the
20 ones that are tasked with teaching officers with what we
21 would normally consider martial arts, handcuffing,
22 defensive strikes, offensive strikes, and that includes
23 the WRAP.

24 I am also currently one of two coordinators
25 for the Arrest and Control Tactics Team, which is a set

1 of instructors.

2 Q. Okay. And did you go through any particular
3 training in order to become an ACT instructor?

4 A. Yes.

5 Q. What training is that?

6 A. I had to do a two-week course in impact
7 weapons instruction, a two-week course in weaponless
8 defense instruction, a one-week course in advanced
9 ground control, and then a two-day course for CED,
10 Conducted Electric Device, also known commonly as Taser.
11 Those are the basic intro classes that one has to take
12 to become an instructor for the Hayward Police
13 Department.

14 Q. Did you take any classes that are specific to
15 the WRAP restraint device?

16 A. No.

17 Q. Did you take any special training prior to
18 becoming an instructor in regards to the WRAP restraint?

19 A. No.

20 Q. How is it that you learned or were trained on
21 the WRAP restraint at all?

22 A. It is an in-house procedure.

23 Q. What does that mean?

24 A. That means that the WRAP is taught through an
25 in-house. The senior instructors will go over with the

1 newer instructors the procedure for instructing on the
2 WRAP.

3 Q. And who was your senior instructor?

4 A. At the time I got promoted or assigned as an
5 ACT instructor was Lieutenant Eric Krimm.

6 Q. Could you spell his name.

7 A. It's E-R-I-C for the first name, and then last
8 name is K-R-I-M-M.

9 Q. Okay. And when you were trained on the WRAP,
10 were you given any manuals or any sort of documents in
11 order to assist you?

12 A. No. Just the Policy 301, but nothing specific
13 to the WRAP.

14 Q. I'd like to mark as Exhibit 2 the 301 Policy.
15 (Whereupon, Exhibit 2 was marked for
16 identification.)

17 MR. BUELNA: You have that, Defense Counsel.

18 THE WITNESS: Thank you.

19 BY MR. BUELNA: Q. Do you recognize that policy?

20 A. Yes, sir.

21 Q. What is that?

22 A. This is Policy 301, Handcuffing and Restraints
23 from the Hayward Police Department.

24 Q. Is this the policy that you're referring to
25 was given to you by your senior instructor?

1 A. Yes, sir.

2 Q. Okay. So is this the -- this is the only
3 policy that Hayward Police Department has in regards to
4 the use of the WRAP restraint device; is that correct?

5 A. No.

6 Q. You have another policy?

7 A. Yes.

8 Q. What policy is that?

9 A. Policy 300, which is our Use of Force Policy.

10 Q. Okay. Now, if you could turn to, it looks
11 like -- if you see there's like little 83, 84. If you
12 go to 85, or at the bottom there's a Bates 508. You see
13 there there's a highlighted portion?

14 A. Yes, sir.

15 Q. If you read that, it says that your WRAP
16 restraint is made by Safe Restraints; is that correct?

17 A. Yes.

18 Q. All right. And so do you know when you
19 first -- your department first acquired the WRAP
20 restraint?

21 A. I have a general speculation.

22 Q. I don't want you to speculate, but if you have
23 an estimate.

24 A. Estimate. I'm sorry. Mid '90s, late '90s.

25 Q. And, to your knowledge, do you know if it was

1 from Safe Restraints?

2 A. Yes.

3 Q. Okay. And have you received new safe -- or
4 WRAP devices since then, such as --

5 A. As in to replace them or have we been using
6 the same specific restraints since the '90s?

7 Q. Yeah. Have you been using -- I should
8 clarify.

9 How many WRAP restraint devices do you have at
10 the Hayward Police Department?

11 A. I would think four to five.

12 Q. And, to your knowledge, were all of those
13 acquired in the late '90s, or have they been acquired
14 later on since?

15 A. I have no idea.

16 Q. Okay. Now, when you were trained on the WRAP,
17 were there any specific precautions that were -- that
18 were told to you about when using the WRAP?

19 A. There was the general safety guidelines of
20 monitoring the subject for medical emergencies when a
21 subject's put into the WRAP. Not to leave, if I recall,
22 not to leave the subject in the facedown position for
23 extended periods of time.

24 Q. And why were you explained or -- and/or
25 trained on why you were not to leave a subject facedown

1 for extended period of time?

2 A. It could cause difficulty breathing.

3 Q. And were you trained what to do if a subject
4 expressed difficulty breathing while being in the
5 facedown position?

6 A. Yes. Officers are trained. That's not
7 specific to just the ACT Program. Officers are trained
8 to respond to medical needs.

9 Q. And in the specific instance if someone who is
10 facedown and handcuffed expressing difficulty breathing,
11 what should the officer do?

12 A. That would be scenario based. So depending on
13 what is occurring, the officer should address the
14 medical need when safe to do so.

15 Q. And would one of the ways to address it be to
16 roll the subject into a recovery position?

17 A. That could be one, yes.

18 Q. And what is a recovery position?

19 A. There's two that we generally teach.

20 Q. Okay.

21 A. For that instance, I would say rolling them
22 over to their side.

23 Q. Okay. And what does rolling the person over
24 onto their side do?

25 A. It relieves pressure from the chest. It also

1 would allow, in case the subject is choking or has
2 vomited and that is the reason that they're having
3 difficulty breathing, be able to expel that from their
4 mouth. It also allows the officers the ability to
5 better assess the subject.

6 Q. And I'm sorry if you already said it. So is
7 one of the reasons why you rolled on your side to
8 relieve any pressure or compression upon the subject's
9 back?

10 A. Yes, that's the first thing I said.

11 Q. And are Hayward Police Department officers
12 trained on the recovery position?

13 A. Yes.

14 Q. And are they trained, as you mentioned, to
15 monitor the breath of the subject while they're
16 facedown?

17 A. I wouldn't say specifically facedown. I would
18 say in general monitoring the officer -- or the subject.
19 So we don't tell them if they're facedown monitor their
20 breathing. It's the expectation that they're monitoring
21 the subject that's in their control.

22 Q. Throughout the entire application?

23 A. Yes. Because if I said just facedown, then if
24 they're on their back, that doesn't relieve the officer
25 from monitoring their breathing of the subject or the

1 medical condition.

2 Q. That makes sense.

3 So, now, when you train officers, do you
4 provide them any other documents besides policies?

5 A. No.

6 Q. Have you -- I would like to mark this as
7 Exhibit 2. Or sorry, 3.

8 (Whereupon, Exhibit 3 was marked for
9 identification.)

10 BY MR. BUELNA: Q. There you are.

11 A. Thank you.

12 Q. I know the front page isn't very exciting.
13 But if you turn to the second page, do you recognize
14 these photos?

15 A. Yes.

16 Q. What are those? What's that photo on the
17 second page?

18 A. The photo on the second page is a
19 demonstration using both words and photographs of the
20 step-by-step process of the application of the WRAP
21 restraint on the subject.

22 Q. And is this similar to what the officers are
23 trained on? I know it's brief and generalized, but is
24 this --

25 A. This is exactly how we teach them.

1 Q. This is exactly how you teach them.

2 And is this something that you learn from the
3 WRAP restraints company, or you said it was just senior
4 officers that -- or senior instructors that trained you
5 this way?

6 A. For me it was senior instructors. But this is
7 consistent with what we teach.

8 Q. Okay. All right. And I just want to read on
9 that first one. "Step one, control and handcuff the
10 subject. Use techniques that do not restrict the
11 subject's breathing." Do you see that?

12 A. Yes, sir. I do.

13 Q. Is that something that is trained to Hayward
14 Police Department officers?

15 A. We won't say specifically do not use
16 techniques to restrict the subject's breathing. We
17 admonish them be wary of the subject's ability to
18 breathe. But, yes, that's generally what we teach.

19 Q. And it's my understanding that the WRAP device
20 is carried only by a sergeant; is that correct?

21 A. Supervisors, and, if I'm not mistaken, the
22 special duty unit may have one of them, yes.

23 Q. What's the -- what's the reasoning behind
24 that?

25 A. We don't have many. If the WRAP restraint is

1 going to be used, the supervisor should be on scene as
2 it will be a use of force. So generally those two. Is
3 we don't have a enough to go around, and a supervisor's
4 going to have to respond from the onset anyway.

5 Q. Okay. And when more -- I realize there's
6 situations where there's a lot of officers. And there
7 may be situations where there's a few officers. Is
8 there a recommended amount of officers that should be
9 present when applying the WRAP?

10 A. We generally tell them that there should be at
11 least four of you. One to control the legs, two to
12 control the upper body, and one to begin the application
13 process. But you could do it with less, and then you
14 could do it with more. But if too many get involved, it
15 will become a difficult process I would say.

16 Q. And is it the supervisor or the sergeant's
17 responsibility to sort of delegate the rules, or is that
18 something that the officers just know?

19 A. Something the officers know. I wouldn't say
20 the supervisor needs to delegate.

21 Q. Now, you said there has to be -- strike that.
22 You said -- you recommend that there's two
23 controlling the upper body, correct?

24 A. Yes.

25 Q. Now, would putting your knee on the subject's

1 back while they're facedown, is that consistent with the
2 techniques that they're trained on?

3 A. We teach --

4 MR. ROLLAN: Objection. Vague. You can
5 answer.

6 THE WITNESS: We teach the officers that a
7 place that you can control the upper body is by placing
8 a knee in the upper back area, specifically the
9 shoulder.

10 BY MR. BUELNA: Q. What about the mid back?

11 A. We teach them that that is an area to avoid if
12 they can. But it's not something that we say you can't
13 do.

14 Q. Now, the officer that -- strike that.

15 Now, is it understood by the officers that the
16 people that are towards the upper body should be ones
17 specifically monitoring the breath of the subject?

18 A. I would say that that would make sense as
19 they're the closest to the person's upper body to be
20 able to monitor that. But we don't specifically say,
21 you're controlling the upper body. You're the only
22 person that can be monitoring the breath.

23 So, again, that's going to be something that
24 we tell officers that you -- in situations you need to
25 be aware of your surroundings and aware of the condition

1 of the subject you're in contact with.

2 Q. Okay. That makes sense. And when you say --
3 strike that.

4 We've said monitoring the breath a couple of
5 times. But what sort of techniques are officers using
6 in order to be consistent with that training?

7 A. Visual and auditory. So watching the subject
8 if they're actually breathing. They can maybe listen to
9 hear if the subject may be choking. That would be an
10 indication. If they notice that they're no longer
11 breathing. So there would be numerous ways for a person
12 to be able to monitor somebody for breathing.

13 Q. Now, specifically when the subject is
14 facedown, is it best practice and are officers trained
15 that they should try to keep a visual on the subject's
16 face -- strike that.

17 When a subject is facedown and an officer is
18 trying to monitor their breath, is it best practice to
19 be able to see the subject's face?

20 A. I wouldn't say we teach anything best
21 practice. So we would indicate to the officers that you
22 have to be aware of the subject's condition. I wouldn't
23 tell them that they need to see their face to be able to
24 do that. Officers need to be making decisions on the
25 scenario and the circumstances that present themselves.

1 So we'll teach -- we'll give them tools, so to
2 speak, that they can then apply to the scenarios that
3 present themselves. Because it may be that they won't
4 be able to see the subject's face. If it's dark, they
5 can't see. Or maybe the officer has an injury to his
6 eye. So, again, we teach monitored best that you can.
7 We don't say best practices to turn their head and look
8 at their face to see if they're breathing.

9 Q. But they are trained to use visual and
10 auditory cues in order to monitor their breathing?

11 A. Yes.

12 Q. Okay. And one of those auditory cues is if a
13 subject expresses that he's having trouble breathing,
14 correct?

15 A. Yes. That can be one of them.

16 Q. And another visual cue and/or auditory cue
17 would be if a subject becomes motionless for an extended
18 period of time, correct?

19 A. That would be a visual cue, yes.

20 Q. I'm going to mark this as Exhibit 4.

21 (Whereupon, Exhibit 4 was marked for
22 identification.)

23 BY MR. BUELNA: Q. I realize this is a large packet.
24 But you'll see at the bottom there's Bates stamps. It
25 says PLTF, underscore, a lot of zeros and then a number.

1 So I'm going to use that to reference what page number
2 I'm looking at.

3 What -- do you recognize the front page of
4 this?

5 A. I recognize the logo. I wouldn't say I
6 recognize the specific page.

7 Q. You haven't been given this?

8 A. No. I haven't been given this large -- well,
9 this is repeated several times, is it not?

10 Q. It's actually multiple manuals or packets that
11 were handed out with the WRAP device.

12 A. Okay.

13 Q. But not to you?

14 A. No. I recognize it, but not specifically
15 this.

16 Q. And you've never received or had in your
17 possession or reviewed a manual from Safe Restraints on
18 the WRAP?

19 A. I do have a manual from WRAP Restraints. Yes,
20 I do.

21 Q. You do?

22 A. Yes.

23 Q. And is that manual used to train officers?

24 A. No.

25 Q. No. What's that manual for?

1 A. The manual is provided by WRAP Restraints.
2 It's just the product information. We took -- or
3 corrected. I'm not going to say we because I didn't
4 write the original outline for it.

5 But my understanding is that our outline was
6 taken from the material here. And as I've reviewed it,
7 it's consistent with what we teach.

8 Q. Okay. So this one I believe you turn the page
9 to 6. And I'm talking about Bates numbers.

10 A. Yes.

11 Q. You see there's a little mark next to it. It
12 says August or 08/14?

13 A. Yes.

14 Q. Which I believe means that this is the -- the
15 issued manual from 2014?

16 A. Yes.

17 Q. Okay. Now, if you flip the page to 9. I know
18 I'm making you go backwards and yours isn't bound.
19 You'll see that there's a multiple -- the device
20 actually comes in different styles or sizes.

21 Do you know which one the Hayward Police
22 Department has?

23 A. We use the WRAP standard.

24 Q. Okay. And are all the WRAPs at the Hayward
25 Police Department the WRAP standard?

1 A. Yes, sir.

2 Q. Now I'm going to have you flip to 17.

3 A. I'm there.

4 Q. Okay. And at the top you see where it says
5 precautions?

6 A. Yes, sir.

7 Q. Precaution number one, aspiration.

8 "Aspiration is possible when in the supine position.

9 Applied properly, the WRAP harness does not hinder the
10 subject's ability to breath. To minimize respiratory
11 issues, personnel need to work quickly so the subject is
12 secured in one of the recovery positions."

13 Is that statement consistent with what the
14 Hayward Police Department trains its officers on?

15 A. We don't necessarily say you need to work
16 quickly. We do say that you should be applying it
17 correctly and doing so at a safe pace so that you're
18 keeping yourself safe and the subject safe.

19 Q. Okay.

20 A. But I do not believe we use the words, "work
21 quickly."

22 Q. Okay. What about minimize -- using techniques
23 to minimize respiratory issues? Is that -- is that
24 something that officers are trained to do?

25 A. Again, we wouldn't say something so specific

1 as that. We would say something to the lines of be
2 aware of medical concerns. Subjects on their stomach
3 could have difficulty breathing. Place them in the WRAP
4 and try to get them seated up as safely as you can.

5 Q. And it says there, one of the recovery
6 positions. And you had mentioned there is two. One is
7 on their side. What's the other recovery position?

8 A. Other one's going to be sitted up, up seated
9 so that they're in a typical seated position.

10 Q. With their legs extended out?

11 A. Yes, sir.

12 Q. Okay. If you look there below that, there's
13 precaution two, medical attention. I'm going to read
14 from there. And it says, "If a restrained subject
15 complains of or exhibits any medical concerns, seek
16 immediate medical attention. Medical treatment can be
17 provided while the subject is restrained in the WRAP."

18 Is that something that the Hayward Police
19 Department officers are trained on?

20 A. Yes. If somebody's exhibiting a medical
21 emergency, you need to respond to it.

22 Q. Okay. And they give some examples right
23 below. It says, "Examples of health concerns are:
24 Respiratory distress, coughing, gasping, gagging,
25 shortness of breath." Is that something that the

1 Hayward Police Department officers are trained on?

2 A. Yes.

3 Q. What about sudden quiet or inactivity,
4 especially after a violent struggle?

5 A. Yes.

6 Q. Okay. Chest pain shooting down -- down the
7 arm. Is that something they're trained on?

8 A. The verbal cue, yes. We wouldn't know if
9 they're having chest pains. They would have to say it.

10 Q. Okay. And change in facial color. Is that
11 something that they're trained on?

12 A. That's typical of something we would say, yes.

13 Q. An expression of elevated body temperature,
14 like I'm burning up. Is that something they're trained
15 on?

16 A. Yes.

17 Q. Are they trained on mental -- or a health
18 concern of vomiting?

19 A. Oh, yes.

20 Q. And suspected drug behavior?

21 A. As a health concern, I don't think we
22 specifically say that's a health concern, that suspected
23 drug behavior. We're more along the lines of if they're
24 having a medical emergency that you can observe, you
25 have to respond to. But suspected drug behavior is not

1 a medical emergency that we teach.

2 Q. Understood. Rather, would it be fair to say
3 if there were medical symptoms of drug use that, you
4 know, were one of these three, that would be something
5 that they would have to watch out for?

6 A. I think just in general we teach them that --
7 to be aware of subjects under the influence, their
8 behavior and the safety precautions that come along with
9 it.

10 Again, I don't recall us in the ACT program
11 teaching that somebody under the influence of a
12 controlled substance is a medical health concern that
13 you need to call for treatment. We teach that that is
14 a -- can be a contributing factor, and that is something
15 to be aware of. But it's not specifically that's a
16 health concern you have to start medical services for.

17 Q. But it may be if they -- let me put it this
18 way. If they suspect that they may be under the
19 influence of a controlled substance and then they
20 exhibit medical symptoms of -- of respiratory distress
21 or something along those lines, then they would respond
22 to that, correct?

23 A. Yes, that is -- that is correct. We do say if
24 somebody you suspect under the influence of a controlled
25 substance is also displaying medical or medical needs

1 such as this, it would be a medical situation. That is
2 correct.

3 Q. And then the last one is sweating profusely.
4 Is that something that the Hayward Police Department
5 officers are trained on?

6 A. We mention it is something to look out for,
7 but that's a difficult one to teach. What's sweating
8 profusely? So we just say this is stuff to look for.

9 Q. Is it fair to say if sweating profusely was
10 combined with one of these other aforementioned medical
11 concerns, that that would be something to respond to?

12 A. Yes.

13 Q. Now, I'm going to have you turn to 19 now.
14 And if you look in sort of under where it says "the
15 WRAP" in big, big text. It says "Safe Restraints
16 Incorporated. The WRAP is the ultimate immobilization
17 system. The WRAP can greatly reduce injuries,
18 positional asphyxia and in-custody death while
19 attempting to control a violent subject allowing medical
20 treatment while restrained." Do you read that?

21 A. Yes, sir.

22 Q. Do you recognize the word "positional
23 asphyxia"?

24 A. Yes, sir.

25 Q. What does that word mean to you?

1 A. I have like a general --

2 MR. ROLLAN: Objection. Calls for expert
3 opinion.

4 THE WITNESS: I have a general understanding
5 of it as a subject in certain positions can have
6 difficulty breathing and in which case they can
7 asphyxiate from it. That's my general knowledge of it.

8 MR. BUELNA: Okay. We're going to take a
9 brief break. We're just going to go over maybe the few
10 questions I have left. Okay. We're off the record.

11 (Break was taken.)

12 BY MR. BUELNA: Q. So we're back on the record. Same
13 rules apply as counsel mentioned.

14 I also wanted to clarify real quick when you
15 mentioned before that Officer McCrea was a sergeant,
16 what did you mean by that?

17 A. So I apologize. It may sound like I was
18 indicating that he got demoted, which was not the case.
19 Unfortunately, in 2015 Sergeant Lunger was shot and
20 killed on duty. And Officer McCrea at the time was
21 placed as an acting supervisor in his stead. So he was
22 an acting sergeant, which is a temporary position to
23 fill the need of the departments, you know, staffing.

24 So I apologize. He was still technically the
25 rank of officer at the time, and he's maintained it. I

1 just said sergeant at the time because I understand he
2 was a supervisor there.

3 Q. Okay.

4 A. So --

5 Q. That's fine. That's fine. I just wanted to
6 clarify. And he had said as much himself at his own
7 deposition. I just wanted to make sure he wasn't
8 recently promoted.

9 A. No, sir.

10 Q. All right. Going back to the WRAP device. So
11 are there any specific procedures when a subject falls
12 unconscious while the WRAP is being applied?

13 A. Depends on at what portion the WRAP is being
14 applied at.

15 Q. Let's say the person -- the subject is
16 handcuffed, but the -- none of the other restraints have
17 yet been applied and they fall unconscious. What would
18 be the procedures?

19 A. Again, that would be scenario based. It's
20 very difficult. If the subject was violent and had
21 been, you know, resisting the officers but is now
22 handcuffed. It could be that a carotid was just
23 applied. Or it's too much of a scenario base because if
24 the subject regains consciousness right away and we have
25 him in the supine position giving CPR, he can then

1 attack the officers.

2 So we teach officers or give them the tools to
3 make a judgment at the time because. Is it safe to now
4 apply emergency medical services? If it's safe to do
5 so, then the officers are trained to do so. If it's not
6 safe, then the officers need to address the safety
7 issue.

8 If they go unconscious and they feel that it's
9 a medical emergency, the procedure would be to notify or
10 call for EMS. So that would be -- EMS is Emergency
11 Medical Services. Which for us would include an
12 ambulance, which is Paramedics Plus. But also the
13 Hayward Fire Department will respond when we request
14 those. So, again, it's scenario based. So I apologize
15 if I can't directly answer you.

16 Q. That was fine. Now I'm going to add another
17 step to it.

18 A. Yes.

19 Q. So the subject is facedown, fallen
20 unconscious, handcuffed and the ankle restraint has been
21 applied, and they fall unconscious. What would be the
22 procedure?

23 A. Again, the officer has to make that
24 determination or the officers on scene. If it's safe to
25 do so, begin applying the emergency medical services.

1 If there's still some type of safety concern or the WRAP
2 is almost -- or the leg restraints put on -- you said
3 the ankle strap. So that means the legs should be --
4 the leg strap should be right there. If the officers
5 deem that it's necessary to continue putting the strap
6 on due to the subject's behavior and the safety
7 concern -- because we also teach officers that subjects
8 can bait them.

9 By that I mean, that they can pretend to be
10 unconscious or pretend to stop fighting just to ambush
11 the officer. In fact, on my patrol team probably about
12 three weeks ago we had a similar situation where a
13 subject was being transported. He was in custody for a
14 theft. He was in the backseat. He was a large
15 individual that had just fought asset protection. Not
16 the police, but the asset protection from the store that
17 he was arrested at.

18 While he was in the backseat he pretended to
19 go unconscious. I don't know why but once he heard that
20 the officer was pulling over ordering an ambulance,
21 ordering this, he regained consciousness and said -- or
22 he vocalized that he wasn't actually unconscious.

23 So we teach officers that that's a tactic that
24 suspects can use against them as to lull them into a
25 false sense of security. So, again, going back to

1 answering your question. It's entirely on the officer's
2 judgment at the time. If they believe that it's safe to
3 do so, then begin applying the emergency medical
4 services. If they believe that some more steps need to
5 take to be able to safely control the subject, then they
6 do that.

7 Q. Okay. If the -- and I understand. And maybe
8 that it's the totality of the circumstances that informs
9 the officers. However, if the subject hadn't been
10 resisting prior to arrest or had been cooperative with
11 officers, would that change the analysis?

12 A. No. Because they still need to take the
13 information they have at the time. Just because they
14 weren't physically restraining, if they were having
15 signs or symptoms, such as verbalization or the intent
16 to resist or they were displaying resistance prior to
17 the officer -- or not resistance, violence. I
18 apologize.

19 Prior to the officer's contact in that
20 situation, they would still need to assess the situation
21 to determine. So I can't give you a specific yes or no.
22 It's circumstantial.

23 Q. When you're applying the WRAP, is there a
24 certain -- do you train officers that there's a certain
25 landscape that they should be applying it on, like a

1 flat surface as opposed to a rolling hills or I don't
2 know?

3 A. It's -- it's preferred that the subject's on a
4 flat surface. But it's whatever you actually have at
5 your disposal. Unfortunately, with this business you
6 don't always get the preferred location you would like.

7 Q. But, when possible, you would prefer a flat
8 surface, right?

9 A. Yes, sir.

10 Q. And I imagine also when possible you wouldn't
11 be applying the WRAP near an exhaust pipe; is that
12 correct?

13 A. When possible, I would say yes.

14 Q. Now, how often are officers trained on the
15 WRAP? Is it just once or are they trained annually?

16 A. Annually. The WRAP is part of our POST, which
17 is Police Officer Standard and Training. PSP, which is
18 Perishable Skills Program outlines. So they will get
19 trained on that annually. And I believe that POST
20 requires them to have five and a half hours of it every
21 two years. But we do it annually.

22 Q. And, to your knowledge, have all the defendant
23 officers been trained annually since they began working
24 at Hayward Police Department?

25 MR. ROLLAN: Objection. Calls for

1 speculation.

2 THE WITNESS: To my knowledge, yes. Officers
3 are required by the police department to attend
4 specifically those trainings.

5 BY MR. BUELNA: Q. Have you personally trained any of
6 the defendant officers in this case?

7 A. I've been an instructor since 2010. I would
8 say yes. I can't give you a definitive yes, I have.
9 It's not in my recollection. I've taught many classes.
10 So --

11 Q. You don't have a particular memory of one of
12 the defendant officers in your instruction?

13 A. No, sir.

14 Q. And we probably should have gone over this
15 first. What are the general basic steps of applying the
16 WRAP device?

17 A. The first and foremost is the subject needs to
18 be handcuffed. We tell the officers that you cannot
19 apply the WRAP restraint device until the subject is
20 handcuffed.

21 From there we tell them to control the
22 subjects and get them into a prone position, which is --
23 prone is facedown. Officers need to control the upper
24 body and the lower body.

25 The first part of the WRAP that we instruct

1 them to apply is the ankle strap. That will help them
2 and assist them in the rest of the application, for the
3 fact that it helps control the legs.

4 From there the officers need to lift the
5 subject's legs up, and then they pull the leg restraint
6 portion of the WRAP below the subject.

7 From there the leg restraints are wrapped
8 around the subject's legs. And there are three straps
9 that are then tightened down. This is going to be
10 considered what we say is applying the lower half of the
11 WRAP.

12 From there we teach the officers to roll the
13 subject over and push him up into the recovery position
14 that we had discussed earlier. And then place a harness
15 on the subject's upper body. And the first portion of
16 that that needs to be applied after being put on is
17 there is a carabiner, which is a locking device on the
18 back part that needs to be interlocked with the
19 handcuffs.

20 Once it's interlocked with the handcuffs, it's
21 then tightened down to ensure that it will not open
22 during any further process. After that the officers
23 then use the two side straps to bring the back portion
24 of the harness, the chest harness, to the front and
25 apply them to the front in a -- looks like a seat belt

1 buckle is the best way I would describe it, to the front
2 of it.

3 Once that is applied, officers will then
4 tighten down at the same time the two straps that I just
5 described. But we caution them and tell them you should
6 not overtighten those straps. And a typical way to test
7 that is to check for if you can place either a fist or a
8 hand in between the chest harness and the subject's
9 chest.

10 From there there's a tether that is at the
11 front of the chest that is long enough to reach the
12 subject's ankles. The officers will then push the
13 subject a little bit forward to ensure that they're not
14 trying to resist or push back. And then that is
15 attached via a carabiner similar to the one that's on
16 the back of the chest harness. That is then tightened
17 down.

18 From there the tether is then pulled taut so
19 that way the subject -- it will keep the subject in the
20 recovery position even if they refused to or tried to
21 move backwards.

22 The leftover tether is then tied to itself so
23 that way it's not loose and somebody doesn't accidentally
24 overtighten it from there. At that point the subject is
25 what we would like to call the finished application of

1 the WRAP.

2 We then teach officers how to move the
3 subject, if need be, which is part of that ankle strap
4 that I mentioned earlier has a handle on it to help you.

5 We also teach officers that if the subject
6 then has become compliant or we feel will cooperate, you
7 can release the tether from the chest restraint to the
8 leg restraint. And then we can release the tension on
9 the ankle strap, at which point they can very mildly
10 walk. It's more of a waddle. But we teach that
11 officers have to be holding the subject because he's
12 still -- or they, I'm sorry, not he -- they are still
13 handcuffed. So in case they fall we want to be able to
14 prevent their fall.

15 That's going to be your typical verbalization
16 of the application of the WRAP.

17 Q. Now, are officers trained any differently --
18 strike that.

19 Are officers trained that obese persons are at
20 a higher risk for having difficulty breathing while the
21 WRAP is being applied?

22 A. I wouldn't say trained. I'd say maybe
23 mentioned, but it's not part of the curriculum.

24 Q. What do you mean by mentioned?

25 A. Subjects that are obese could have difficulty

1 breathing if left on their stomach would be something
2 typical that is mentioned, yes.

3 Q. Okay. To officers while they're being
4 trained?

5 A. Yes.

6 Q. And is there any training in regards to
7 subjects -- strike that.

8 Are officers trained to make any sort of
9 accommodations for people that suffer from mental
10 illnesses while the WRAP is being applied?

11 A. I don't think I understand.

12 Q. Let me phrase it this way. Is it your
13 understanding that sometimes people with mental
14 illnesses require accommodations? For example, take --
15 allowing them more time to comply with an order or
16 something along those lines?

17 A. Well, the training we would provide on that
18 is, again, behavioral based. So the WRAP restraint is
19 intended for subjects who are being uncontrollable and
20 violent. Any type of interaction in regards to what
21 you're describing is deescalation or techniques in
22 verbalization of getting compliance.

23 So the WRAP restraint would not have the
24 instruction on that. I'm sorry. The WRAP restraint
25 wouldn't be the deescalation or the interaction. The

1 WRAP restraint is specifically intended for people who
2 are not in control. Who are potentially violent and
3 they can hurt themselves or hurt others. So the purpose
4 of it is to immobilize them.

5 Q. So there isn't any need to deescalate the
6 situation in order to gain compliance while applying the
7 WRAP?

8 MR. ROLLAN: Objection. Vague and ambiguous.

9 THE WITNESS: Officers are taught the
10 deescalation techniques. Our -- our instruction on the
11 WRAP is specifically the application. So I believe what
12 you're asking for is tactics. And the ACT program,
13 while it does go over some tactics, it is more
14 specifically in regards to techniques in response to
15 behavior. Someone takes a swing at you, this is what
16 you should do.

17 I believe what you're talking about could be
18 covered more in a field training or a deescalation
19 training kind of thing.

20 BY MR. BUELNA: Q. So is it fair to say, if, you
21 know -- strike that.

22 Is it fair to say that if there's something
23 that the WRAP policy doesn't cover, the officer can rely
24 on other trainings in order to address the situation?

25 MR. ROLLAN: Objection. Vague.

1 THE WITNESS: I would say yes. Because I
2 understand what you're asking. Officers do get trained
3 in how to handle situations and tactics and responses to
4 things. That would be outside of the WRAP training.

5 BY MR. BUELNA: Q. But they wouldn't be prevented from
6 using those techniques or tactics while applying the
7 WRAP?

8 A. Correct. They could use all the techniques
9 and all the training that they have been receiving to
10 the situation.

11 Q. Okay. And, now, it's my understanding that
12 Officer Hall was a -- was essentially an officer in
13 training at the time. Is there -- would that mean that
14 she hadn't received any of the WRAP device training?

15 MR. ROLLAN: Objection. Calls for
16 speculation.

17 THE WITNESS: No. She had to have gone
18 through the in-house academy. So she would have
19 received the WRAP training, which is covered in our
20 in-house academy.

21 BY MR. BUELNA: Q. And are sergeants or acting
22 sergeants trained any differently on the WRAP than
23 rookie officers or other officers?

24 A. Other than most likely receiving more training
25 on it. And training of where it's located in the

1 sergeants' offices, that would be it. And when I say
2 more training, I meant the sergeants typically have a
3 longer career than rookie officers. So they have gone
4 through that annual POST PSP program I mentioned earlier
5 more. That's what I meant by more training.

6 Q. I see you anticipate. You've already learned
7 sitting around what the lawyers mean.

8 A. Yes. So by that I meant they have attended
9 our training more often than rookie officers. Rookie
10 officers maybe typically have had it once or twice. For
11 our police department to be a sergeant you need four
12 years of patrol experience and have a minimum of two
13 years at the Hayward Police Department.

14 And then just in the typical history of our
15 police department, you know, you've been there for
16 seven, six, seven years before you get promoted.

17 Q. Okay. All right. And we mentioned that
18 officers are told to stay away from placing their knee
19 on someone's mid back, correct?

20 MR. ROLLAN: Objection. Misstates testimony.

21 THE WITNESS: I would say we train them that
22 that's an area they should stay away from, if they can,
23 if it's possible.

24 BY MR. BUELNA: Q. And would one of those areas that
25 they should stay away from, if possible, also include

1 the neck?

2 A. Yes. Again, that's situational. So I can't
3 just say they should.

4 Q. And the spine?

5 A. Correct. Also a should, if possible.

6 Q. The recommended area is the shoulder?

7 A. Shoulder or upper back area. That could be
8 next to the neck, not specifically just your shoulder.
9 I'm not an expert in anatomy. So I don't know what
10 covers shoulder, what covers not. We give them a
11 general area.

12 Q. Fair enough.

13 And there's a difference between monitoring
14 and moving someone into a recovery position and applying
15 CPR, correct?

16 A. By definition, technically yes. Because the
17 monitoring and moving will lead most likely into the
18 CPR. CPR is a specific action.

19 Q. But I -- strike that.

20 If a subject expresses some sort of medical
21 concern about having difficulty breathing, there's a way
22 to check on that without having to apply CPR, correct?

23 MR. ROLLAN: Objection. Calls for
24 hypothetical. You can answer.

25 THE WITNESS: I would say yes. You can check

1 for somebody's breathing without applying CPR. In fact,
2 you have to because if you start applying CPR to someone
3 that doesn't need that, you can injure them.

4 MR. BUELNA: That's it. All right. That's
5 all my question. Do you have any questions, Counsel?

6 EXAMINATION

7 MR. ROLLAN: I do. Just two questions.

8 Q. So, Officer Wilson, earlier you testified that
9 as part of the monitoring of someone for which a WRAP
10 device is being applied that officers are trained to
11 employ both visual and auditory monitoring; is that
12 correct?

13 A. Yes. That's what I said.

14 Q. Are there instances where visual monitoring
15 may not be possible but auditory monitoring is possible?

16 A. Yes. I would say if it's too dark, it's in a
17 dark room, there's no light, you would still be able to
18 hear if the subject's choking or breathing heavily. So,
19 yes, you could monitor through auditory without visual
20 being something that you can observe.

21 Q. Okay. And then, likewise, is it possible to
22 perform visual monitoring but not do auditory monitoring
23 of a suspect?

24 A. Again, yes. A situation I could think of
25 would be if you're going into a bar. There's loud music

1 or if there's been a fight, and you see a subject on the
2 ground and you could tell that they're vomiting or
3 choking. You could visually see the medical emergency
4 without having to hear it because your inability to hear
5 it, I guess you could say.

6 Q. So is it your understanding that in some
7 situations either visual or auditory monitoring is
8 sufficient for the purposes of monitoring someone for
9 which a WRAP is being applied?

10 A. Yes. You could use just one or the other,
11 yes.

12 Q. Okay. Those are all my questions.

13 MR. BUELNA: Thank you.

14 THE COURT: Would you like a transcript?

15 MR. ROLLAN: Yes, please, as soon as possible.

16 (Whereupon, at 11:21 a.m., the deposition of OFFICER
17 BRADON WILSON was concluded, this date.)

18
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20 -----
21 OFFICER BRADON WILSON
22
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24 --o0o--
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1 STATE OF CALIFORNIA)
2) Ss.
3 COUNTY OF ALAMEDA)
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5 I hereby certify that the witness, OFFICER
6 BRADON WILSON, in the foregoing deposition appeared
7 before me, Kelly McKissack, a Certified Shorthand
8 Reporter and a disinterested person.

9 Said witness was then and there at the time
10 and place previously stated by me placed under oath to
11 tell the truth, the whole truth and nothing but the
12 truth in the testimony given on the date of the within
13 deposition; that the deposition is a true record of the
14 witness' testimony as reported by me.

15 The testimony of the witness and all questions
16 and remarks requested by Counsel was reported under my
17 direction and control, caused to be transcribed into
18 typewritten form by means of Computer-Aided
19 Transcription.

20 I am a Certified Shorthand Reporter licensed
21 by the State of California, and I further certify that I
22 am not interested in the outcome of the said action, nor
23 connected with, nor related to any of the parties in
24 said action, nor to their respective counsel. I am not
25 of counsel or attorney for either or any of the parties
to the case named in the within caption.

IN WITNESS WHEREOF, I have hereunto affixed my
signature this 20th day of April, 2018.

___/s/Kelly McKissack_____

Kelly McKissack
Certified Shorthand Reporter
California License No. 13430

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DEPONENT SIGNATURE PAGE

I hereby certify that I have read my deposition
made those changes and/or corrections I deem
necessary, and approve the same as now written.

Executed this _____ day of _____, 2018

By:

BRANDON WILSON

Under Penalty of Perjury

--o0o--

DEPONENT SIGNATURE WAIVER

The signing of the deposition by the deponent was conditionally waived at the time of the taking of the deposition.

Barbara J. Butler, CSR #5604

Upon completion of the foregoing transcript, the witness was notified it was ready for signature, but the deposition was not signed by the witness for the following reason:

BARBARA J. BUTLER & ASSOCIATES

--o0o--

WITNESS LETTER

TO: Officer Brandon Wilson Date: 04.24.18
c/o Raymond R. Rollan, Deputy City Attorney
City Attorney's Office
777 B Street Depo: 04.06.18
Hayward, CA 94541 Ref. #18040621A

RE: Roy Nelson, III, et al. v. City of Hayward, et al.

Dear Officer Wilson:

The transcript of your Deposition reported in the above-captioned cause has been prepared and will be available at this office for your inspection and signature for a period of 30 days from the date of this letter.

Please contact our office between the hours of 9:30 a.m. and 5:00 p.m. Monday-Friday, to schedule an appointment. Or, if you prefer, contact your attorney to read, correct and sign the copy of your Deposition before a Notary Public.

Read the transcript making any changes and/or corrections necessary. In making any changes and/or corrections, please use the following guide:

1. DO NOT WRITE on the original transcript.
2. SIGN UNDER PENALTY OF PERJURY at the end of the Deposition on the Deponent Signature Page.
3. List each change and/or correction on the Correction Sheet provided at the end of the Deposition. Signature is required at the bottom of the Correction Page.
4. Forward the signed Deponent Signature Page and Correction Sheet to:

Barbara J. Butler & Associates
Certified Court Reporters
P.O. Box 3508
Santa Clara, California 95055
(510) 832-8853 or (408) 248-2885

Upon receipt of items requested in this letter, I will forward copies of same to all Counsel.

Sincerely,

/s/Barbara J. Butler
Barbara J. Butler, CSR

cc: All Counsel

1 DEPONENT'S CHANGES/CORRECTION SHEET AND REASON

2 RE: Roy Nelson, III, et al. v. City of Hayward, et al.

3 Depo: 04.06.18

Ref. #18040621A

4 Note: If you are adding to or deleting from your
 5 testimony, print the exact words you want to add or
 delete. Specify with "Add" or "Delete" and sign below.

6 PAGE LINE Change/Add/Delete

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22 I hereby certify that I have read my deposition
 23 transcript, made those changes and corrections that I
 deem necessary and approve the same as now true and
 correct.

24 DATE: _____ Signature_____

25 BRANDON WILSON

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